

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

TURNBERRY WOODS AT THE
STRAND CONDOMINIUM
ASSOCIATION, INC,

Plaintiff,

v.

Case No: 2:21-cv-138-SPC-MRM

EMPIRE INDEMNITY
INSURANCE COMPANY,

Defendant.

_____ /

ORDER¹

Before the Court is Plaintiff Turnberry Woods at the Strand Condominium Association, Inc.'s Motion to Stay and Compel Appraisal ([Doc. 16](#)), along with Defendant Empire Indemnity Insurance Company's opposition ([Doc. 22](#)). In opposing the motion, Defendant asks the Court not to compel appraisal and require the parties to mediate first per the terms of the insurance policy. ([Doc. 16-1 at 38](#)).

Since the parties have filed their briefs, however, they attended mediation and reached an impasse. ([Doc. 26](#)). As such, Defendant's only

¹ Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

reason to oppose appraisal is moot. And Defendant has done nothing in the month since mediation to try to further oppose appraisal. So, having reviewed the parties' papers, record, and applicable law, it will exercise its discretion to compel appraisal. *See generally Waterford Condo. Ass'n of Collier Cnty., Inc. v. Empire Indem. Ins.*, No. 2:19-CV-81-SPC-NPM, 2019 WL 4861196, at *1 (M.D. Fla. Oct. 2, 2019) (adopting the majority view among Florida courts that gives trial courts discretion over the relative timing of appraisal and coverage determinations); *State Farm Fire & Cas. Co. v. Middleton*, 648 So. 2d 1200, 1201-02 (Fla. Dist. Ct. App. 1995) (noting "the general, even overwhelming, preference in Florida for the resolution of conflicts through extra-judicial means, especially [appraisal], for which the parties have themselves contracted"). The Court thus grants Plaintiff's motion.

Accordingly, it is now

ORDERED:

1. Plaintiff Turnberry Woods at the Strand Condominium Association, Inc.'s Motion to Stay and Compel Appraisal ([Doc. 16](#)) is **GRANTED**.
2. This case is **STAYED** pending appraisal, and the Clerk must add a stay flag to the file.
3. The parties are **DIRECTED** to file a joint report on the status of appraisal on or before **December 28, 2021**, and every **ninety days** thereafter until appraisal has ended.

4. Within **seven days** of appraisal ending, the parties are **DIRECTED** to jointly notify the Court of (a) what issues, if any, remain for the Court to resolve; (b) whether the stay needs to be lifted; and (c) how this action should proceed, if at all.

DONE and **ORDERED** in Fort Myers, Florida on September 29, 2021.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record